

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Gerald McMurray,)
Plaintiff,) Civil Action No. 6:12-cv-1922-MGL
v.)
Carolyn W. Colvin,)
Defendant.)

ORDER

This matter is before the court upon motion of plaintiff's counsel, W. Daniel Mayes, for attorney fees under the Social Security Act, 42 U.S.C. § 406(b). Counsel has submitted copies of the Notice of Award from the Commissioner and the Plaintiff's signed Fee Agreement. The Commissioner has responded to the motion indicating that she has no substantive objection to the amount sought.

Plaintiff's counsel petitions the court for approval of the federal court related fee in the amount of \$12,255.75 pursuant to the terms of a written contingent-fee agreement with the Plaintiff. That contingent-fee agreement provides, in pertinent part, for the payment of attorney fees in the amount of 25% of all past-due benefits recovered. The Plaintiff's attorney has previously been granted fees by this court in the amount of \$3,300.00 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.

In the United States Supreme Court case of *Gisbrecht v. Barnhart*, 535 U.S. 780 (2002), the Court held that the provision of the Social Security Act limiting attorney fees to 25% of past-due benefits does not displace contingent-fee agreements that are within

such statutory ceiling, and instructs courts to review for reasonableness fees yielded by such agreements. In addition, if the claimant has been awarded attorney fees under EAJA, the claimant's attorney must refund the lesser of the two fees to the claimant. *Id.* at 796.

Upon review of the material submitted to the court, the undersigned finds that Plaintiff counsel's request for attorney fees is reasonable. Therefore, it is ordered that the Plaintiff's attorney may collect a fee of \$12,255.75 from past due benefits. Plaintiff's attorney must refund to the Plaintiff the EAJA award of \$3,300.00.

s/Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

July 13, 2015